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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,271	11/09/2001	James P. Freyensee	5181-96500	2600
7590	07/07/2005		EXAMINER	
Lawrence J. Merkel Conley, Rose, & Tayon, P.C. P.O. Box 78767 Austin, TX 78767			PHAN, THAI Q	
			ART UNIT	PAPER NUMBER
			2128	

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/008,271

Applicant(s)

FREYENSEE ET AL.

Examiner

Thai Q. Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/2002, 04/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

PD

### **DETAILED ACTION**

This Office Action is in response to patent application S/N: 10/008,271, filed on 11/09/2001 . Claims 1-39 are pending in the application.

#### ***Information Disclosure Statement***

The Information Disclosure Statements filed on Feb. 25, 2002 and Apr. 07, 2005 have been considered.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 20-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims require a plurality of instructions and instruction execution but the claims do not show what executed the instructions. Which node executed the instructions, the first node, second node or another nodes.
3. As cited in claim 20 "a first node in a simulation in a distributed simulation system" is unclear for what it represents for. What "a first node" in the cited feature refers to. Does it refer to simulation node or a node in the distributed simulation network?

As cited in claim 23 "when executed, terminate execution in the first node" is unclear for what the execution does.

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4. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: what are structural relationships between the carrier media, the distributed simulation system, and a hub as cited in the claim. The claim does not show relationships between such elements for realization.

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 20-23 of the present invention are directed to non-statutory subject matter. Claims are directed to a carrier media with instructions. It represents for a program in writable media. The claim is thus non-statutory subject matter.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Chari et al, US patent no. 6,711,645 B1.

As per claim 1, Chari discloses a method and system for simulating a hot plug or hot pull process with feature limitations very similar to the claimed invention. According to Chari, the method includes steps

Configuring a first node to participate in a simulation,

Configuring a second network node to transmit a pull command designating to the first node (col. 8, lines 14-41, col. 9, lines 36-45, for example), and

Responsive to the hot pull command, the first node participates the simulation (cols. 9-12). Chari does not expressly disclose the claimed limitation of cease participation in the simulation.

Practitioner in the art at the time of the invention was made would have found Chari disclosure, particularly pulling down the power for hot plug/pull process testing for device pulling, adding or swapping obviously implies the claimed feature of ceasing the participation of the simulation process because the power down in the simulation results in ceasing the simulation process.

As per claims 2-3, Chari discloses the claimed limitations such as a plurality of network nodes and node configuration to simulate system under test, component to component connection, etc.

As per claims 4-10, Chari discloses a network manager or the claimed hub to connect and configure components connected to the network (col. 6, lines 13-67, cols. 7-12).

As per claims 11 and 20, Chari discloses a method, a system and a computer program product in the executed system for controlling, testing and simulating a hot

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plug or hot pull process with feature limitations very similar to the claimed invention.

According to Chari, the method includes steps

Configuring a first node to participate and receive command in a simulation of hot swap process (col. 6, lines 13-67, cols. 7, 8),

Configuring a second network node to transmit a pull command designating to the first node (col. 8, lines 14-41, col. 9, lines 36-45, for example), and

Responsive to the hot pull command, the first node participates the simulation (cols. 9-12). Chari does not expressly disclose the claimed limitation of ceasing the participation of the simulation.

Practitioner in the art at the time of the invention was made would have found Chari disclosure, particularly pulling down the power for hot plug/pull process swapping and process testing (simulation) obviously implies the claimed feature of ceasing the participation of the simulation because the power down in the simulation results in ceasing the simulation process.

As per claim 12, Chari disclosure implies ceasing participation because the process power is pulled down for processing swapping or hot-pull process when the device with new configuration data change.

As per claims 13-19, Chari discloses the claimed limitations such as a plurality of network nodes and node configuration to simulate system under test, component-component connections, etc. Chari also discloses a network manager or the claimed hub to connect and configure components connected to the network (col. 6, lines 13-67, cols. 7-12).

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Claims 21-39 are directed to a computer program product and system to execute the program product for performing steps in claims 1-20 above. Similarly, claims 21-39 are also rejected under the same rationales as set forth.

### ***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US patent application publication no. US 2003/0074177 issued to Bowen, M.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thai Phan whose telephone number is 571-272-3783. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean Homere can be reached on 571-272-3780. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

3. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 20, 2005

A handwritten signature in black ink, appearing to read "Thai Phan", is positioned above the printed name.

Thai Phan  
Patent Examiner